

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

ANDREYA CHRISTINE PELS

Respondent

Case No. 2012-594

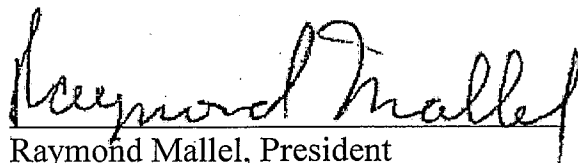
OAH No. 2012060414

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **March 8, 2013**.

IT IS SO ORDERED **February 7, 2013**.



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

13 **ANDREYA CHRISTINE PELS**

14
15
16 Respondent.

Case No. 2012-594

OAH No. 2012060414

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
20 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
21 which will be submitted to the Board for approval and adoption as the final disposition of the
22 Statement of Issues.

23 **PARTIES**

24 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
25 Registered Nursing. She brought this action solely in her official capacity and is represented in
26 this matter by Kamala D. Harris, Attorney General of the State of California, by Ron Espinoza,
27 Deputy Attorney General.

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1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Statement of
3 Issues No. 2012-594.

4 10. Respondent agrees that her application for a Registered Nurse License is subject to
5 denial and she agrees to be bound by the Board's probationary terms as set forth in the
6 Disciplinary Order below.

7 CONTINGENCY

8 11. This stipulation shall be subject to approval by the Board of Registered Nursing.
9 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
10 Registered Nursing may communicate directly with the Board regarding this stipulation and
11 settlement, without notice to or participation by Respondent or her counsel. By signing the
12 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
13 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
14 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
15 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
16 action between the parties, and the Board shall not be disqualified from further action by having
17 considered this matter.

18 12. The parties understand and agree that copies of this Stipulated Settlement and
19 Disciplinary Order, including the signatures thereto, shall have the same force and effect as the
20 originals.

21 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
26 writing executed by an authorized representative of each of the parties.
27
28

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that the application of Respondent Andreya Christine Pels for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a Registered Nurse License shall be issued to Respondent. Said license shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of three (3) years on the following conditions:

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license

1 status with the Board, including during any period of suspension.

2 Upon successful completion of probation, Respondent's license shall be fully restored.

3 3. **Report in Person.** Respondent, during the period of probation, shall appear in
4 person at interviews/meetings as directed by the Board or its designated representatives.

5 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
6 practice as a registered nurse outside of California shall not apply toward a reduction of this
7 probation time period. Respondent's probation is tolled, if and when she resides outside of
8 California. Respondent must provide written notice to the Board within 15 days of any change of
9 residency or practice outside the state, and within 30 days prior to re-establishing residency or
10 returning to practice in this state.

11 Respondent shall provide a list of all states and territories where she has ever been licensed
12 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
13 information regarding the status of each license and any changes in such license status during the
14 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
15 license during the term of probation.

16 5. **Submit Written Reports.** Respondent, during the period of probation, shall submit
17 or cause to be submitted such written reports/declarations and verification of actions under
18 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
19 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
20 Respondent shall immediately execute all release of information forms as may be required by the
21 Board or its representatives.

22 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
23 state and territory in which she has a registered nurse license.

24 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall
25 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
26 6 consecutive months or as determined by the Board.

27 For purposes of compliance with the section, "engage in the practice of registered nursing"
28 may include, when approved by the Board, volunteer work as a registered nurse, or work in any

1 non-direct patient care position that requires licensure as a registered nurse.

2 The Board may require that advanced practice nurses engage in advanced practice nursing
3 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

4 If Respondent has not complied with this condition during the probationary term, and
5 Respondent has presented sufficient documentation of her good faith efforts to comply with this
6 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
7 extension of Respondent's probation period up to one year without further hearing in order to
8 comply with this condition. During the one year extension, all original conditions of probation
9 shall apply.

10 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
11 prior approval from the Board before commencing or continuing any employment, paid or
12 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
13 performance evaluations and other employment related reports as a registered nurse upon request
14 of the Board.

15 Respondent shall provide a copy of this Decision to her employer and immediate
16 supervisors prior to commencement of any nursing or other health care related employment.

17 In addition to the above, Respondent shall notify the Board in writing within seventy-two
18 (72) hours after she obtains any nursing or other health care related employment. Respondent
19 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
20 separated, regardless of cause, from any nursing, or other health care related employment with a
21 full explanation of the circumstances surrounding the termination or separation.

22 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
23 Respondent's level of supervision and/or collaboration before commencing or continuing any
24 employment as a registered nurse, or education and training that includes patient care.

25 Respondent shall practice only under the direct supervision of a registered nurse in good
26 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
27 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
28 approved.

1 Respondent's level of supervision and/or collaboration may include, but is not limited to the
2 following:

3 (a) Maximum - The individual providing supervision and/or collaboration is present in
4 the patient care area or in any other work setting at all times.

5 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
6 care unit or in any other work setting at least half the hours Respondent works.

7 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
8 person communication with Respondent at least twice during each shift worked.

9 (d) Home Health Care - If Respondent is approved to work in the home health care
10 setting, the individual providing supervision and/or collaboration shall have person-to-person
11 communication with Respondent as required by the Board each work day. Respondent shall
12 maintain telephone or other telecommunication contact with the individual providing supervision
13 and/or collaboration as required by the Board during each work day. The individual providing
14 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
15 patients' homes visited by Respondent with or without Respondent present.

16 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
17 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
18 or for an in-house nursing pool.

19 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
20 registered nursing supervision and other protections for home visits have been approved by the
21 Board. Respondent shall not work in any other registered nursing occupation where home visits
22 are required.

23 Respondent shall not work in any health care setting as a supervisor of registered nurses.
24 The Board may additionally restrict Respondent from supervising licensed vocational nurses
25 and/or unlicensed assistive personnel on a case-by-case basis.

26 Respondent shall not work as a faculty member in an approved school of nursing or as an
27 instructor in a Board approved continuing education program.

28 Respondent shall work only on a regularly assigned, identified and predetermined

1 worksite(s) and shall not work in a float capacity.

2 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
3 request documentation to determine whether there should be restrictions on the hours of work.

4 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and
5 successfully complete a course(s) relevant to the practice of registered nursing no later than six
6 months prior to the end of her probationary term.

7 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
8 Respondent shall submit to the Board the original transcripts or certificates of completion for the
9 above required course(s). The Board shall return the original documents to Respondent after
10 photocopying them for its records.

11 11. **Violation of Probation.** If Respondent violates the conditions of her probation, the
12 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
13 and impose the stayed discipline (revocation) of Respondent's license.

14 If during the period of probation, an accusation or petition to revoke probation has been
15 filed against Respondent's license or the Attorney General's Office has been requested to prepare
16 an accusation or petition to revoke probation against Respondent's license, the probationary
17 period shall automatically be extended and shall not expire until the accusation or petition has
18 been acted upon by the Board.

19 12. **License Surrender.** During Respondent's term of probation, if she ceases practicing
20 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
21 Respondent may surrender her license to the Board. The Board reserves the right to evaluate
22 Respondent's request and to exercise its discretion whether to grant the request, or to take any
23 other action deemed appropriate and reasonable under the circumstances, without further hearing.
24 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
25 subject to the conditions of probation.

26 Surrender of Respondent's license shall be considered a disciplinary action and shall
27 become a part of Respondent's license history with the Board. A registered nurse whose license
28 has been surrendered may petition the Board for reinstatement no sooner than the following

1 minimum periods from the effective date of the disciplinary decision:

2 (1) Two years for reinstatement of a license that was surrendered for any reason other
3 than a mental or physical illness; or

4 (2) One year for a license surrendered for a mental or physical illness.

5 13. **Physical Examination.** Within 45 days of the effective date of this Decision,
6 Respondent, at her expense, shall have a licensed physician, nurse practitioner, or physician
7 assistant, who is approved by the Board before the assessment is performed, submit an
8 assessment of the Respondent's physical condition and capability to perform the duties of a
9 registered nurse, including a determination as set forth below in the condition titled "Rule-Out
10 Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to
11 the Board. If medically determined, a recommended treatment program will be instituted and
12 followed by the Respondent with the physician, nurse practitioner, or physician assistant
13 providing written reports to the Board on forms provided by the Board.

14 If Respondent is determined to be unable to practice safely as a registered nurse, the
15 licensed physician, nurse practitioner, or physician assistant making this determination shall
16 immediately notify the Board and Respondent by telephone, and the Board shall request that the
17 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
18 immediately cease practice and shall not resume practice until notified by the Board. During this
19 period of suspension, Respondent shall not engage in any practice for which a license issued by
20 the Board is required until the Board has notified Respondent that a medical determination
21 permits Respondent to resume practice. This period of suspension will not apply to the reduction
22 of this probationary time period.

23 If Respondent fails to have the above assessment submitted to the Board within the 45-day
24 requirement, Respondent shall immediately cease practice and shall not resume practice until
25 notified by the Board. This period of suspension will not apply to the reduction of this
26 probationary time period. The Board may waive or postpone this suspension only if significant,
27 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
28 by Respondent to obtain the assessment, and a specific date for compliance must be provided.

1 Only one such waiver or extension may be permitted.

2 **14. Mental Health Examination.** Respondent shall, within 45 days of the effective date
3 of this Decision, have a mental health examination including psychological testing as appropriate
4 to determine her capability to perform the duties of a registered nurse, including a determination
5 as set forth below in the condition titled "Rule-Out Substance Abuse Assessment." The
6 examination will be performed by a psychiatrist, psychologist or other licensed mental health
7 practitioner approved by the Board. The examining mental health practitioner will submit a
8 written report of that assessment and recommendations to the Board. All costs are the
9 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
10 result of the mental health examination will be instituted and followed by Respondent.

11 If Respondent is determined to be unable to practice safely as a registered nurse, the
12 licensed mental health care practitioner making this determination shall immediately notify the
13 Board and Respondent by telephone, and the Board shall request that the Attorney General's
14 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
15 practice and may not resume practice until notified by the Board. During this period of
16 suspension, Respondent shall not engage in any practice for which a license issued by the Board
17 is required, until the Board has notified Respondent that a mental health determination permits
18 Respondent to resume practice. This period of suspension will not apply to the reduction of this
19 probationary time period.

20 If Respondent fails to have the above assessment submitted to the Board within the 45-day
21 requirement, Respondent shall immediately cease practice and shall not resume practice until
22 notified by the Board. This period of suspension will not apply to the reduction of this
23 probationary time period. The Board may waive or postpone this suspension only if significant,
24 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
25 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
26 Only one such waiver or extension may be permitted.

27 **15. Rule-Out Substance Abuse Assessment.** If the examiner conducting the physical
28 and/or mental health examination determines that Respondent is dependent upon drugs or alcohol,

1 or has had problems with drugs or alcohol (i.e., drug dependence in remission or alcohol
2 dependence in remission), that might reasonably affect the safe practice of nursing, then
3 Respondent must further comply with the following additional terms and conditions of probation:

4 **A. Participate in Treatment/Rehabilitation Program for Chemical**

5 **Dependence.** Respondent, at her expense, shall successfully complete during the
6 probationary period or shall have successfully completed prior to commencement
7 of probation a Board-approved treatment/rehabilitation program of at least six
8 months duration. As required, reports shall be submitted by the program on forms
9 provided by the Board. If Respondent has not completed a Board-approved
10 treatment/rehabilitation program prior to commencement of probation,
11 Respondent, within 45 days from the effective date of the decision, shall be
12 enrolled in a program. If a program is not successfully completed within the first
13 nine months of probation, the Board shall consider Respondent in violation of
14 probation.

15 Based on Board recommendation, each week Respondent shall be required
16 to attend at least one, but no more than five 12-step recovery meetings or
17 equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse
18 support group as approved and directed by the Board. If a nurse support group is
19 not available, an additional 12-step meeting or equivalent shall be added.
20 Respondent shall submit dated and signed documentation confirming such
21 attendance to the Board during the entire period of probation. Respondent shall
22 continue with the recovery plan recommended by the treatment/rehabilitation
23 program or a licensed mental health examiner and/or other ongoing recovery
24 groups.

25 **B. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
26 shall completely abstain from the possession, injection or consumption by any
27 route of all controlled substances and all psychotropic (mood altering) drugs,
28 including alcohol, except when the same are ordered by a health care professional

1 legally authorized to do so as part of documented medical treatment. Respondent
2 shall have sent to the Board, in writing and within fourteen (14) days, by the
3 prescribing health professional, a report identifying the medication, dosage, the
4 date the medication was prescribed, the Respondent's prognosis, the date the
5 medication will no longer be required, and the effect on the recovery plan, if
6 appropriate.

7 Respondent shall identify for the Board a single physician, nurse
8 practitioner or physician assistant who shall be aware of Respondent's history of
9 substance abuse and will coordinate and monitor any prescriptions for Respondent
10 for dangerous drugs, controlled substances or mood-altering drugs. The
11 coordinating physician, nurse practitioner, or physician assistant shall report to the
12 Board on a quarterly basis Respondent's compliance with this condition. If any
13 substances considered addictive have been prescribed, the report shall identify a
14 program for the time limited use of any such substances.

15 The Board may require the single coordinating physician, nurse
16 practitioner, or physician assistant to be a specialist in addictive medicine, or to
17 consult with a specialist in addictive medicine.

18 **C. Submit to Tests and Samples.** Respondent, at her expense, shall
19 participate in a random, biological fluid testing or a drug screening program which
20 the Board approves. The length of time and frequency will be subject to approval
21 by the Board. Respondent is responsible for keeping the Board informed of
22 Respondent's current telephone number at all times. Respondent shall also ensure
23 that messages may be left at the telephone number when she is not available and
24 ensure that reports are submitted directly by the testing agency to the Board, as
25 directed. Any confirmed positive finding shall be reported immediately to the
26 Board by the program and Respondent shall be considered in violation of
27 probation.

28 In addition, Respondent, at any time during the period of probation, shall

1 fully cooperate with the Board or any of its representatives, and shall, when
2 requested, submit to such tests and samples as the Board or its representatives may
3 require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other
4 controlled substances.

5 If Respondent has a positive drug screen for any substance not legally
6 authorized and not reported to the coordinating physician, nurse practitioner, or
7 physician assistant, and the Board files a petition to revoke probation or an
8 accusation, the Board may suspend Respondent from practice pending the final
9 decision on the petition to revoke probation or the accusation. This period of
10 suspension will not apply to the reduction of this probationary time period.

11 If Respondent fails to participate in a random, biological fluid testing or
12 drug screening program within the specified time frame, Respondent shall
13 immediately cease practice and shall not resume practice until notified by the
14 Board. After taking into account documented evidence of mitigation, if the Board
15 files a petition to revoke probation or an accusation, the Board may suspend
16 Respondent from practice pending the final decision on the petition to revoke
17 probation or the accusation. This period of suspension will not apply to the
18 reduction of this probationary time period.

19 **D. Therapy or Counseling Program.** Respondent, at her expense, shall
20 participate in an on-going counseling program until such time as the Board
21 releases her from this requirement and only upon the recommendation of the
22 counselor. Written progress reports from the counselor will be required at various
23 intervals.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Chris Andrian, Esq. I understand the stipulation and the effect it will have on my application for and licensure as a Registered Nurse. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 09/12/12
ANDREYA CHRISTINE PELS
Respondent

I have read and fully discussed with Respondent Andrey Christine Pels the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 9-14-12
CHRIS ANDRIAN, ESQ.
Attorney for RespondentENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 9-19-12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES LEDAKIS
Supervising Deputy Attorney General



RON ESPINOZA
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Statement of Issues No. 2012-594

1 KAMALA D. HARRIS
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3 ALFREDO TERRAZAS
4 Senior Assistant Attorney General
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14 *Attorneys for Complainant*

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
13 Against:

Case No. 202-594

14 **ANDREYA CHRISTINE PELS**

STATEMENT OF ISSUES

15 Applicant/Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Interim Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about October 14, 2011, the Board of Registered Nursing, Department of
23 Consumer Affairs received an application for a Registered Nursing license from Andrey
24 Christina Pels (Respondent). On or about October 7, 2011, Andrey Christina Pels certified
25 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
26 application. The Board denied the application on January 25, 2012.

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JURISDICTION

3. This statement of issues is brought before the board of registered nursing (board), department of consumer affairs, under the authority of the following laws. All section references are to the business and professions code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2736 of the Business and Professions Code (Code) provides, in pertinent part, that the Board of Registered Nursing (Board) may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

1 (2) Done any act involving dishonesty, fraud, or deceit with the intent to
2 substantially benefit himself or herself or another, or substantially injure another.

3 (3) (A) Done any act that if done by a licentiate of the business or profession in
4 question, would be grounds for suspension or revocation of license.

5 (B) The board may deny a license pursuant to this subdivision only if the crime
6 or act is substantially related to the qualifications, functions, or duties of the business
7 or profession for which application is made.

8

9 7. Section 482 of the Code states:

10 Each board under the provisions of this code shall develop criteria to evaluate
11 the rehabilitation of a person when:

12 (a) Considering the denial of a license by the board under Section 480; or

13 (b) Considering suspension or revocation of a license under Section 490.

14 Each board shall take into account all competent evidence of rehabilitation
15 furnished by the applicant or licensee.

16 8. Section 493 of the Code states:

17 Notwithstanding any other provision of law, in a proceeding conducted by a
18 board within the department pursuant to law to deny an application for a license or to
19 suspend or revoke a license or otherwise take disciplinary action against a person who
20 holds a license, upon the ground that the applicant or the licensee has been convicted
21 of a crime substantially related to the qualifications, functions, and duties of the
22 licensee in question, the record of conviction of the crime shall be conclusive
23 evidence of the fact that the conviction occurred, but only of that fact, and the board
24 may inquire into the circumstances surrounding the commission of the crime in order
25 to fix the degree of discipline or to determine if the conviction is substantially related
26 to the qualifications, functions, and duties of the licensee in question.

27 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
28 'registration.'

9. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or
deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the
following:

....

(f) Conviction of a felony or of any offense substantially related to the
qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

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10. Section 2762 of the Code states:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

....

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

....

11. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

12. California Code of Regulations, title 16, section 1445 states:

....

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

1 (3) The time that has elapsed since commission of the act(s) or offense(s).

2 (4) Whether the licensee has complied with any terms of parole, probation,
3 restitution or any other sanctions lawfully imposed against the licensee.

4 (5) If applicable, evidence of expungement proceedings pursuant to Section
5 1203.4 of the Penal Code.

6 (6) Evidence, if any, of rehabilitation submitted by the licensee.

7 **FIRST CAUSE FOR DENIAL OF APPLICATION**

8 (August 29, 2008 Criminal Conviction for DUI on February 1, 2008)

9 13. Respondent's application is subject to denial under section 480, subdivision (a)(1) of
10 the Code and 2761(f) in that she was convicted of a crime that is substantially related to the
11 qualifications, duties, and functions of a registered nurse. The circumstances are as follows:

12 a. On or about August 29, 2008, in a criminal proceeding entitled *People of the*
13 *State of Arizona v. Pels, Andrey Christine*, in Scottsdale City Court, Maricopa County, State of
14 Arizona, Case Number M-0751-TR2008003766, Respondent was convicted by plea of guilty for
15 violating Arizona Statute, A.R.S. 28-1382A "Extreme DUI above .15 BAC" a class one
16 misdemeanor. The remaining counts related to her DUI arrest were dismissed pursuant to a plea
17 agreement.

18 b. As a result of the conviction, on or about August 29, 2008, Respondent was
19 sentenced as follows: Fines/fees/costs in the amount of \$2,772.40, thirty days jail custody with
20 15 days suspended upon successful completion of an alcohol screening/program, installation of
21 ignition lock for one year, and five years probation.

22 c. The facts that led to the DUI conviction are that on or about the early morning
23 hours of February 1, 2008, Respondent was observed travelling in Scottsdale, Arizona on East
24 McDowell Road in her silver BMW by a Police Officer with the Scottsdale Police Department.
25 While following the Respondent's car, the officer observed Respondent's car drift into other lanes
26 of traffic and in completing a right hand turn, Respondent's car struck the curb. The Officer
27 conducted a traffic stop and contacted the Respondent; he immediately smelled alcohol and had
28 the Respondent complete a field sobriety test. She did not pass the field sobriety test, so the
officer administered a Preliminary Breath Test on Respondent, which rendered a field reading of

1 .32 BAC at 0314 hours. At 0402 hours, Respondent was administered a blood test, which yielded
2 a BAC of .213.

3 **SECOND CAUSE FOR DENIAL OF APPLICATION**

4 (Unprofessional Conduct-Dangerous Use of Alcohol)

5 14. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A)
6 of the Code in that on or about February 1, 2008, Respondent used alcohol to an extent or in a
7 manner that was dangerous and injurious to herself and the public when she operated a motor
8 vehicle while under the influence of alcohol, as detailed in paragraph 13 above, which subjects a
9 licensed registered nurse to discipline under section 2762, subdivision (b) of the Code.

10 **THIRD CAUSE FOR DENIAL OF APPLICATION**

11 (Unprofessional Conduct-Conviction of Alcohol Related Offense)

12 15. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A)
13 of the Code in that on or about August 29, 2008, in a criminal proceeding entitled, *People of the*
14 *State of Arizona v. Pels, Andrey Christine*, in Scottsdale City Court, Maricopa County, State of
15 Arizona, Case Number M-0751-TR2008003766, Respondent was convicted by her plea of guilty
16 to A.R.S. 28-1382A "Extreme DUI above .15 BAC" a class one misdemeanor, as detailed in
17 paragraph 13, above, which subjects a licensed registered nurse to discipline under section 2762,
18 subdivision (c) of the Code.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Andreyia Christine Pels for a Registered Nurse License;
2. Taking such other and further action as deemed necessary and proper.

DATED: April 04, 2012


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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